

AMENDED IN ASSEMBLY MAY 7, 2015

AMENDED IN ASSEMBLY APRIL 28, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1002

Introduced by Assembly Member ~~Wilk~~ Members *Wilk and Alejo*

February 26, 2015

An act to amend Section 1033.5 of the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1002, as amended, Wilk. Civil actions: interpreter costs.

Existing law enumerates costs that a prevailing party in a civil action may recover. Existing law allows a prevailing party to recover court interpreter fees under specified conditions. Existing law also allows recovery of certain costs related to depositions.

This bill would allow a prevailing party to recover interpreter fees for the deposition of a party or witness who does not proficiently speak or understand the English language.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1033.5 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1033.5. (a) The following items are allowable as costs under
- 4 Section 1032:
- 5 (1) Filing, motion, and jury fees.

1 (2) Juror food and lodging while they are kept together during
2 trial and after the jury retires for deliberation.

3 (3) (A) Taking, video recording, and transcribing necessary
4 depositions, including an original and one copy of those taken by
5 the claimant and one copy of depositions taken by the party against
6 whom costs are ~~allowed~~ *allowed*.

7 (B) Fees of a certified or registered interpreter for the deposition
8 of a party or witness who does not proficiently speak or understand
9 the English language.

10 (C) Travel expenses to attend depositions.

11 (4) Service of process by a public officer, registered process
12 server, or other means, as follows:

13 (A) When service is by a public officer, the recoverable cost is
14 the fee authorized by law at the time of service.

15 (B) If service is by a process server registered pursuant to
16 Chapter 16 (commencing with Section 22350) of Division 8 of the
17 Business and Professions Code, the recoverable cost is the amount
18 actually incurred in effecting service, including, but not limited
19 to, a stakeout or other means employed in locating the person to
20 be served, unless those charges are successfully challenged by a
21 party to the action.

22 (C) When service is by publication, the recoverable cost is the
23 sum actually incurred in effecting service.

24 (D) When service is by a means other than that set forth in
25 subparagraph (A), (B), or (C), the recoverable cost is the lesser of
26 the sum actually incurred, or the amount allowed to a public officer
27 in this state for that service, except that the court may allow the
28 sum actually incurred in effecting service upon application pursuant
29 to paragraph (4) of subdivision (c).

30 (5) Expenses of attachment including keeper's fees.

31 (6) Premiums on necessary surety bonds.

32 (7) Ordinary witness fees pursuant to Section 68093 of the
33 Government Code.

34 (8) Fees of expert witnesses ordered by the court.

35 (9) Transcripts of court proceedings ordered by the court.

36 (10) Attorney's fees, when authorized by any of the following:

37 (A) Contract.

38 (B) Statute.

39 (C) Law.

40 (11) Court reporter fees as established by statute.

1 (12) Court interpreter fees for a qualified court interpreter
2 authorized by the court for an indigent person represented by a
3 qualified legal services project, as defined in Section 6213 of the
4 Business and Professions Code or a pro bono attorney as defined
5 in Section 8030.4 of the Business and Professions Code.

6 (13) Models and ~~blowups~~ *enlargements* of exhibits and
7 photocopies of exhibits may be allowed if they were reasonably
8 helpful to aid the trier of fact.

9 (14) Any other item that is required to be awarded to the
10 prevailing party pursuant to statute as an incident to prevailing in
11 the action at trial or on appeal.

12 (b) The following items are not allowable as costs, except when
13 expressly authorized by law:

14 (1) Fees of experts not ordered by the court.

15 (2) Investigation expenses in preparing the case for trial.

16 (3) Postage, telephone, and photocopying charges, except for
17 exhibits.

18 (4) Costs in investigation of jurors or in preparation for voir
19 dire.

20 (5) Transcripts of court proceedings not ordered by the court.

21 (c) Any award of costs shall be subject to the following:

22 (1) Costs are allowable if incurred, whether or not paid.

23 (2) Allowable costs shall be reasonably necessary to the conduct
24 of the litigation rather than merely convenient or beneficial to its
25 preparation.

26 (3) Allowable costs shall be reasonable in amount.

27 (4) Items not mentioned in this section and items assessed upon
28 application may be allowed or denied in the court's discretion.

29 (5) When any statute of this state refers to the award of "costs
30 and attorney's fees," attorney's fees are an item and component
31 of the costs to be awarded and are allowable as costs pursuant to
32 subparagraph (B) of paragraph (10) of subdivision (a). Any claim
33 not based upon the court's established schedule of attorney's fees
34 for actions on a contract shall bear the burden of proof. Attorney's
35 fees allowable as costs pursuant to subparagraph (B) of paragraph
36 (10) of subdivision (a) may be fixed as follows: (A) upon a noticed
37 motion, (B) at the time a statement of decision is rendered, (C)
38 upon application supported by affidavit made concurrently with a
39 claim for other costs, or (D) upon entry of default judgment.
40 Attorney's fees allowable as costs pursuant to subparagraph (A)

1 or (C) of paragraph (10) of subdivision (a) shall be fixed either
2 upon a noticed motion or upon entry of a default judgment, unless
3 otherwise provided by stipulation of the parties.

4 Attorney's fees awarded pursuant to Section 1717 of the Civil
5 Code are allowable costs under Section 1032 of this code as
6 authorized by subparagraph (A) of paragraph (10) of subdivision
7 (a).